



DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 215 and 252

RIN 0750-AI84

Defense Federal Acquisition Regulation Supplement: DFARS Case 2016-D017, Independent Research and Development Expenses

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: DoD is seeking information that will assist in the development of a revision to the DFARS to ensure that substantial future independent research and development (IR&D) expenses as a means to reduce evaluated bid prices in competitive source selections are evaluated in a uniform way during competitive source selections. In addition to the request for written comments on this proposed rulemaking, DoD will hold a public meeting to hear the views of interested parties.

DATES: Submission of comments: Interested parties should submit written comments to the address shown below on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, to be considered in the development of any proposed DFARS rule.

Public meeting: A public meeting will be held in the General Services Administration (GSA), Central Office Auditorium, 1800 F

Street NW, Washington DC, 20405, on March 3, 2016, from 12:00 p.m. to 4:00 p.m., local time. The GSA Auditorium is located on the main floor of the building.

Individuals wishing to attend the public meeting should register by February 25, 2016, to ensure adequate accommodations, to facilitate entry into the building, and to create an attendee list for secure entry to the GSA building for anyone who is not a Federal Government employee with a Government badge. Interested parties may register at the website, <http://www.acq.osd.mil/dpap/dars/IR&D.html>, by providing the following information:

- Company or organization name;
- Names, telephone numbers and email addresses of persons planning to attend;
- Last four digits of social security number for each attendee (non-Federal employees only); and
- Identify if company or organization desires to make a presentation; limit to one presentation per company or organization. Presentations will be limited to approximately 10 minutes as time permits.

One valid, government-issued photo identification card will be required to enter the building. Non-U.S. citizens may use their valid passport as photo identification. Attendees are

encouraged to arrive at least 30 minutes early to accommodate security procedures.

Special Accommodations: The public meeting location is physically accessible to persons with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Mark Gomersall, telephone 703-602-0302, at least 10 working days prior to the meeting date.

ADDRESSES: Submit comments identified by DFARS Case 2016-D017, using any of the following methods:

- o Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "DFARS Case 2016-D017" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2016-D017." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2016-D017" on your attached document.

- o E-mail: osd.dfars@mail.mil. Include DFARS Case 2016-D017 in the subject line of the message.

- o Fax: 571-372-6099.

- o Mail: Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to

<http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, telephone 571-372-6099; facsimile 571-372-6101.

SUPPLEMENTARY INFORMATION:

I. Background

As expressed in the "Implementation Directive for Better Buying Power 3.0 - Achieving Dominant Capabilities Through Technical Excellence and Innovation," dated April 9, 2015, the Under Secretary of Defense for Acquisition, Technology and Logistics noted a concern when "promised future IRAD [Independent Research and Development] expenditures are used to substantially reduce the bid price on competitive procurements. In these cases, development price proposals are reduced by using a separate source of government funding (allowable IRAD overhead expenses spread across the total business) to gain a price advantage in a specific competitive bid. This is not the intended purpose of making IRAD an allowable cost."

DoD is considering a proposed approach whereby solicitations would require offerors to describe in detail the nature and value of prospective IR&D projects on which the offeror would

rely to perform the resultant contract. Then, as a standard approach, DoD would evaluate proposals in a manner that would take into account that reliance by adjusting the total evaluated price to the Government, for evaluation purposes only, to include the value of related future IR&D projects.

II. Solicitation of Public Comment

DoD is seeking comments on this planned approach in order to assist in the development of a proposed DFARS rule. Specifically, the Department is interested in understanding whether the planned approach would achieve the objective of treating the proposed use of substantial future IR&D expenses as a means to reduce evaluated bid prices in competitive source selections in a uniform manner that is consistent with the objective of making IR&D an allowable cost.

List of Subjects in 48 CFR Parts 215 and 252

Government procurement.

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